

New Jersey Department of Environmental Protection  
New Jersey Administrative Code  
Title 7, Chapter 1E

Subchapter 5

**Discharge Notification, Response and Reporting**

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**7:1E-5.1 Scope**

This subchapter prescribes the rules of the Department for notification and reporting of discharges of hazardous substances, the reporting of malfunctions of discharge detection systems, and response to discharges of hazardous substances. The following shall govern the procedures for notification of the Department, response to a discharge of a hazardous substance, and follow-up reporting.

**7:1E-5.2 Notification of historical discharges**

(a) All persons responsible for a discharge who know or suspect that a discharge has occurred prior to January 23, 1980, or who know or suspect that a discharge has occurred between January 23, 1980 and September 12, 1991, that was not required to be reported at that time, and who have not previously reported that discharge shall conduct a diligent inquiry and shall promptly upon completion of the diligent inquiry and discovery of a discharge notify the Department in writing of such discharge at the address given at N.J.A.C. 7:1E-5.8(f).

(b) All persons responsible for a discharge pursuant to (a) above who previously reported a discharge which occurred prior to January 23, 1980, or who know or suspect that a discharge has occurred between January 23, 1980 and September 12, 1991, that was not required

to be reported at that time, shall promptly correct or supplement the prior notice to the Department if any of the information in the prior notice is determined to be false, misleading or inaccurate, or if additional relevant information is discovered which has not been previously reported to the Department.

(c) All persons responsible for a discharge who are required to make a notification pursuant to (a) or (b) above and who are subject to an investigation or cleanup action under any State or Federal law, may notify the Department of the discovery of a historical discharge as part of the periodic progress reports required during the investigation or cleanup if the discovery of the historical discharge is coincident with such investigation or cleanup.

### **7:1E-5.3 Discharge notification**

(a) Except as delineated in (e) below, immediately after a discharge commences, any person or persons responsible for a discharge who knows or reasonably should know of the discharge, shall immediately notify the Department at (877) WARN DEP (927-6337). In the event that this number is inoperable, any person or persons responsible for a discharge shall immediately notify the State Police at (609) 882-2000.

(b) Notification received by the Department pursuant to (a) above within 15 minutes of the time that the person responsible for a discharge knew, or reasonably should have known, of the discharge shall be considered immediate. It shall be presumed that notification received by the Department more than 15 minutes after the person responsible for a discharge knew, or reasonably should have know, of the discharge is not immediate. The person responsible for the discharge may rebut this presumption by satisfying the requirement of N.J.A.C. 7:1E-5.6.

(c) Any notification performed by any person responsible for a discharge pursuant to (a) and (b) above shall include, but not be limited to, the following information:

1. The name, title, affiliation, address and telephone number of the person reporting the discharge;

2. The location of the discharge, with as much specificity as the Department requests, and in any event with sufficient specificity to enable the Department to direct its agents and employees and any other person to the discharge site, including:

i. For discharges from sites located on land, the name of the site, the street address, the municipality, and the county;

ii. For discharges on, under or into water, the name of the water body, location of the discharge with reference to a fixed point or points, and a description of the area which the discharge may reach;

3. The common name of the hazardous substance(s) discharged;

4. An estimate of the quantity of each hazardous substance discharged, including best estimates if the quantities are unknown;

5. The date and time at which the discharge began, the date and time at which the discharge was discovered, and, if the discharge has ended, the date and time at which it ended;

6. The actions such person proposes to take to contain, clean up and remove the hazardous substance(s) discharged; and

7. The name and address of any person responsible for the discharge.

(d) A copy of the requirements of (c) above, printed in a conspicuous format, shall be displayed by the owner or operator of any vessel which is ordinarily docked in this State in a prominent place on the bridge or pilot house of any such vessel, and by the owner or operator of any onshore facility at any transfer areas and the operations center of any such facility.

(e) For the purposes of this section, a discharge which is not required to be reported under any other State or federal statute, rule or regulation is not required to be reported to the Department pursuant to (a) above provided the discharge meets the conditions described in (e)1 or 3 below:

1. The discharge occurs at a facility for which a DPCC and DCR plan pursuant to N.J.A.C. 7:1E-4.6, or a Risk Management Plan pursuant to N.J.A.C. 7:31, or an Emergency Contingency Plan pursuant to N.J.A.C. 7:26-12 or a Response Plan pursuant to 40 CFR 112 has been approved; and

i. Has not entered any waters of the State or migrated off-site;

ii. Within 24 hours of when any person responsible for the discharge knows or reasonably should have known of the commencement of the discharge, is;

(1) Stopped and contained in conformance with the approved plan in (e)1 above; and

(2) Cleaned up and removed, including any contaminated soil, in accordance with the applicable State or federal regulations for cleanup and remediation, including the storage and disposal of cleanup related materials; and

iii. The owner or operator of the facility documents his or her actions in accordance with N.J.A.C. 7:26E, and maintains and makes available for Department review at either the facility or the Department's offices at the discretion of the Department, such records for three years from the date of the discharge.

2. If the owner or operator determines that all requirements of (e)1i and ii above cannot be met, the owner or operator shall notify the Department immediately upon making such a determination, but in any case, within 24 hours of when any person responsible for the discharge knows or reasonably should have known of the discharge.

3. The discharge of transformer fluid from a transformer which does not contain polychlorinated biphenyls in concentrations of 50 parts per million or greater which either occurs during a state of emergency declared by the federal, State or local government, provided such discharges are reported to the Department within 24 hours of the termination of the state of emergency, or:

- i. The discharge is less than 25 gallons;
- ii. The discharge has not entered any waters of the State, or any storm drain leading to any waters of the State;
- iii. Within 24 hours of when any person responsible for the discharge knows or reasonably should have known of the discharge, is cleaned up and removed in accordance with the applicable State or federal regulations for cleanup and remediation, including the storage and disposal of cleanup related materials; and
- iv. The person responsible for the discharge documents his or her actions in accordance with N.J.A.C. 7:26E, and maintains and makes available for Department review at either the facility or the Department's offices at the discretion of the Department, such records for three years from the date of the discharge.

(f) The following conditions shall be met in order for any release of a hazardous substance consequent to a motor vehicle accident to be considered a leak not requiring notification pursuant to (a) above:

1. The hazardous substance has not entered any waters of the State, or any storm drain leading to any waters of the State;
2. The hazardous substance is contained on a paved roadway; and
3. Prior to its escape to lands or water of the State, the hazardous substance is cleaned up and removed in accordance with the applicable State or federal regulations for cleanup and remediation, including storage and disposal of cleanup related materials.

#### **7:1E-5.4 Notification of aircraft discharges**

(a) In the case of a discharge of a hazardous substance used as fuel from an aircraft into the airspace over the lands or waters of New Jersey, any person responsible for a discharge shall notify the Department at (877) WARN DEP (927-6337). In the event that this number is inoperable, any person or persons responsible for a discharge shall immediately notify the State Police at (609) 882-2000.

(b) Any person responsible for a discharge who notifies the Department pursuant to (a) above shall report:

1. The person causing the discharge;

2. The amount of hazardous substance discharged;
3. Time the discharge occurred;
4. The location in the aircraft flight path of the discharge ;
5. Wind speed and direction; and
6. The area likely to be affected by the discharge.

#### **7:1E-5.5 Notification of malfunctions in discharge detection systems**

(a) The owner or operator of a major facility shall immediately notify the Department at (877) WARN DEP (927-6337) of any malfunction of a discharge detection or other discharge monitoring, prevention or safety system or device. In the event that this number is inoperable, any owner or operator of a major facility shall immediately notify the State Police at (609) 882-2000.

(b) Notification received by the Department pursuant to (a) within 15 minutes of the time that the owner or operator knew, or reasonably should have known, of the occurrence of a malfunction shall be considered immediate. It shall be presumed that notification received by the Department more than 15 minutes after the owner or operator knew, or reasonably should have known, of the malfunction is not immediate. The owner or operator may rebut this presumption by satisfying the requirements of N.J.A.C. 7:1E-5.6.

(c) Within two hours of the initial notification, the owner or operator of a major facility shall notify the Department that one of the following situations exists:

1. The malfunction has been repaired;
2. An alternate discharge detection system has been activated for the equipment utilizing the malfunctioning system; or
3. The equipment protected by the discharge detection system has been taken out of service.

#### **7:1E-5.6 Justification of delay**

(a) The Department, at its discretion, may determine that a period of longer than 15 minutes for initiating the notification of the Department of a discharge is immediate if the person responsible for the discharge can show, by clear and convincing evidence, that the notification of the Department was initiated as soon as possible or reasonable and that notification within 15 minutes was impossible or unreasonable because of:

1. Essential immediate response activities;
2. The circumstances under which the discharge occurred;

3. The circumstances under which the discharge was first discovered; or
4. Some other valid cause or reason.

(b) A person who does not initiate the notification of the Department of a discharge within 15 minutes and who desires to establish that the notification was as immediate as reasonably possible under the circumstances in which the discharge occurred, shall submit a sworn affidavit so attesting with the written confirmation report required by N.J.A.C. 7:1E-5.8. This affidavit shall set forth the circumstances of the discharge to establish that the notification of the Department was as immediate as reasonably possible under the circumstances in which the discharge occurred. The affidavit shall be signed by the person or persons required to sign any certifications pursuant to N.J.A.C. 7:1E-4.11, and shall include, but not be limited to, the following information:

1. The address of the facility at which the discharge occurred;
2. The date and time at which the discharge began and the date and time at which it ceased;
3. The name, job title, affiliation, business telephone number and business address of the individual who first discovered the discharge;
4. The date, the time, and the circumstances under which the discharge was first discovered;
5. The reason(s), if any, why the discharge was not immediately discovered;
6. The date and time which the discharge was first reported to the Department;
7. The name, business telephone number, and business address of the individual who first notified the Department of the discharge;
8. Any reason why initiation of notification of the Department within 15 minutes of the onset of the discharge was impossible or unreasonable; and
9. A demonstration that initiation of notification was carried out as soon as possible or reasonable.

**7:1E-5.7 Discharge response**

(a) Any person responsible for a discharge shall:

1. Take immediate action to stop the discharge;

2. Take all necessary and appropriate measures to contain, mitigate, cleanup and remove the discharge by either:

i. Remediating the discharge pursuant to the Technical Rules for Site Remediation, N.J.A.C. 7:26E; or

ii. Shall follow the action plan in the facility's approved DCR plan, prepared and implemented in accordance with N.J.A.C. 7:1E-4; and

3. Coordinate such actions with the Department.

(b) No person shall apply chemicals to a discharge without the prior approval of the Department or the federal on-scene coordinator under the National Contingency Plan pursuant to 40 CFR 300, unless such application is necessary to prevent or mitigate a situation that poses a serious and imminent threat to human life. In any such situation of imminent threat to human life, the owner or operator shall make reasonable efforts to secure the approval of the Department or the federal on-scene coordinator before applying chemicals. Approval to apply chemicals may be obtained verbally, including by telephone. Application of chemicals pursuant to a DCR plan approved by the Department shall be deemed to have prior approval. Unauthorized use of chemicals shall be regarded as a discharge in violation of N.J.A.C. 7:1E-1.11.

(c) Upon learning that a discharge of a hazardous substance has occurred, the Department may:

1. Act to contain, mitigate clean up and remove the discharge; or

2. Take any other action to require any person responsible for the discharge to remediate the discharge pursuant to:

i. The Department Oversight of the Remediation of Contaminated Sites, N.J.A.C. 7:26C; and

ii. The Technical Rules for Site Remediation, N.J.A.C. 7:26E.

(d) The Department, at its discretion, may observe, supervise or participate in, any aspect of containment or cleanup and removal activities. In the exercise of its supervisory power, the Department may order any person to cease cleanup and removal activities and other discharge-related operations if it determines that the person is not capable of properly containing, cleaning up or removing a discharge, or if the Department determines that person is failing to conduct cleanup operations in a proper and expeditious manner.

#### **7:1E-5.8 Confirmation report**

(a) Any owner or operator of a transmission pipeline or of a major facility who has notified the Department of a discharge from a regulated portion of the transmission pipeline or from a regulated portion of the major facility pursuant to N.J.A.C. 7:1E-5.3 shall send to the Department a written confirmation report within 30 days of said notification.

(b) (Reserved)

(c) Any person required to submit a confirmation report pursuant to (a) above shall include the following in the confirmation report:

1. The name, address and telephone number of the individual that reported the discharge pursuant to N.J.A.C. 7:1E-5.3 above ;
2. The name, address and telephone number of the individual submitting the confirmation report if different from the individual identified in (c)1 above, and the relationship between said persons, such as employer-employee or contractor-client;
3. The name, address and telephone number of each owner and operator of the facility at which the discharge occurred, or the vessel or vehicle from which the discharge occurred;
4. The source of the discharge, if known;
5. The location of the discharge, as follows:
  - i. For discharge from sites located on land, the name of the site, the street address, the tax lot and block, the municipality, the county, and comma-delimited State Plane coordinates of the point of discharge;
  - ii. For discharges on, under or into water, the name of the water body, and comma-delimited State Plane coordinates of the place the discharge originated; and
  - iii. For all discharges that affect areas not under the control of the owner or operator, a map of the area affected by the discharge ;
6. A list of the common name and Chemical Abstract Service number of each of the hazardous substances discharged;
7. A list of the quantities of each hazardous substance discharged, including best estimates if the quantities are unknown;
8. The date and time at which the discharge began, the date and time at which the discharge was discovered, the date and time at which the discharge ended, and the date and time at which the Department was notified pursuant to N.J.A.C. 7:1E-5.3;
9. A description of the measures taken to contain, clean up and remove the discharge, and a summary of costs incurred;
10. Corrective or preventative measures taken or proposed to minimize the possibility of recurrence;



11. The name, addresses and telephone numbers of all entities involved in containment, clean up or removal of the discharge;

12. A description of samples taken at or around the site of the discharge, whether before, during or after any containment, clean up or removal. The samples shall be taken and analyzed in accordance with N.J.A.C. 7:26E-2. Records of the results shall be kept on-site and made available for Department review, at either the facility or the Department's offices at the discretion of the Department;

13. A certification stating that financial responsibility demonstrated pursuant to N.J.A.C. 7:1E-4.4 and submitted to the Department pursuant to N.J.A.C. 7:1E-4.3(a)10 is in full force and effect;

14. Information supplementing any information previously provided to the Department if additional relevant information is discovered, or if it is determined that the information previously provided was false, inaccurate or misleading;

15. Any other information concerning the discharge which the Department may request; and

16. A fully executed certification pursuant to N.J.A.C. 7:1E-4.11.

(d) Any person required to submit a confirmation report pursuant to (a) above shall promptly notify the Department in writing of any additional or corrected information which becomes available after the submission of a confirmation report, within 10 days of the availability of that information. Such information shall reference the date, title and author of the confirmation report which is being supplemented.

(e) Any person required to submit a confirmation report for a discharge at a major facility or transmission pipeline shall submit the confirmation report to:

Bureau of Discharge Prevention  
New Jersey Department of Environmental Protection  
P.O. Box 424  
Trenton, New Jersey 08625-0424  
Attention: Discharge Confirmation Report

(f) Any person required to submit a written report pursuant to N.J.A.C. 7:1E-5.2 shall submit the to:

Site Remediation Program  
Discharge Response Element  
New Jersey Department of Environmental Protection  
401 East State Street  
P.O. Box 028  
Trenton, New Jersey 08625-0028  
Attention: Discharge Confirmation Report

#### **7:1E-5.9      Reporting responsibilities of the Department**

(a)      Upon obtaining any information which leads it to suspect that a discharge has occurred in a municipality's jurisdiction, the Department shall immediately notify orally the contact persons for the governing body of the municipality and the local board of health as specified in (b) below, unless these entities have been notified previously.

(b)      The governing body of the municipality and the local board of health shall provide the Department with the name, address and telephone number of a 24 hour contact point and an alternate 24 hour contact point. The governing body of the municipality and the local board of health may change the contact point and alternate contact point upon written notice to the Department. If a contact point and an alternate contact point are not specified, the local police department or local fire department shall be the points designated by the Department to receive notification pursuant to (a) above.

(c)      Within 10 days of the initial oral notification required by (a) above, the Department shall issue a letter confirming, and if appropriate, expanding upon that initial oral notification.

(d)      The Department shall take appropriate action to verify that a discharge has occurred as suspected, including the authorization of agent(s) or officer(s) of the municipality or local board of health by an appropriate Department official to investigate the site of the suspected discharge. Such investigation shall include conducting visual assessment of the site of the discharge and contacting any persons potentially responsible for the discharge.

(e)      The agent(s) or officer(s) of the municipality shall report all findings to the Department.

#### **7:1E-5.10      Discharge reporting requirements of local officials**

(a)      When any governing body of a municipality or local board of health obtains information which leads it to suspect that a discharge has occurred, the governing body or local board of health shall immediately notify, as specified in (b) below, the Department, unless the Department has already been notified of the discharge.

(b)      The governing body or local board of health shall provide the Department with information regarding any discharge pursuant to (a) above in the format specified at N.J.A.C. 7:1E-5.3(a).

(c)      The local governing body and the local board of health shall coordinate all responses to the discharge with the Department.

#### **7:1E-5.11      Amendment of plans following a discharge**

(a)      Following submission of a confirmation report pursuant to N.J.A.C. 7:1E-5.8, the Department may review a facility's DPCC and DCR plans and may require the owner or operator

of the facility to amend the plans if it finds that a plan does not meet the requirements of this chapter or that amendment of the plan is necessary to prevent and contain similar discharges.

(b) Amendments required by the Department shall become part of the DPCC or DCR plan within 30 days after approval by the Department, unless the Department specifies another effective date. The owner or operator shall implement the amendment of the plan as soon as possible, in accordance with a schedule submitted by the owner or operator and approved by the Department.